

**Oral submission to Standing Committee on Justice Policy regarding Bill 6,  
*Correctional Services Transformation Act, 2018***

**By Barbara Finlay, Deputy Ombudsman of Ontario  
(Queen's Park, Thursday, April 19, 2018, 10 a.m.)**

Mr. Chair, members of the Committee, I want to start by thanking you for hearing our submission on this important bill. Copies of our written submission have also been distributed.

The Office of the Ombudsman is uniquely placed to comment on correctional issues. We deal with thousands of complaints from inmates every year, and have more than four decades of experience in this area.

We work closely with the leadership and staff of the Ministry of Community Safety and Correctional Services to flag problems in provincial jails. We routinely alert them to urgent cases and festering issues, as well as more persistent systemic problems.

This bill is in many ways a reflection of that constructive relationship. It is the result of several consultations, to which our Office has been pleased to contribute, from initial meetings with the Ministry to consultations conducted by its independent reviewer, Mr. Sapers, with whom we are in regular contact. It also reflects many recommendations stemming from our Office's investigations, particularly on the issue of segregation – or solitary confinement – of inmates.

In Ombudsman Dubé's written submission to you, he notes these important changes. Most notably, the legislation incorporates recommendations by our Office and others that segregation be clearly defined, that indefinite segregation be abolished, and that placements be strictly limited to 15 consecutive days and 60 days in aggregate per year. It also prohibits segregation of the most vulnerable inmates, such as those who are pregnant or post-partum, and those with significant mental health issues or developmental disabilities.

We know from repeated studies, and from our Office's own observations, the incredible adverse and tragic impacts which prolonged periods of solitary confinement can have on an inmate's mental health. These are welcome and potentially transformative reforms.

What I would like to focus on in the brief time available today, however, are some of the remaining gaps in the bill that, without amendment, could undermine or hinder its purpose.

Our Office recognizes that the committee's timelines are tight, and that the intention is to clarify many outstanding issues in this bill by regulation. However, as we note in Paragraph 14, some definitions – such as those of “serious misconduct” and “restrictive confinement” – should be incorporated in the legislation itself.

As we note in Paragraph 17, transitional provisions in the bill allow specific correctional facilities to be exempted from its key protections, leaving open the possibility that vulnerable inmates could be moved to facilities that are exempted from the Act's new safeguards. These potential loopholes should be removed.

Section 145 also provides that the days an inmate has spent in segregation prior to the coming into force of the new protections in the Act will not be counted towards the new time limitations. This means that inmates who have been in long-term segregation will not immediately benefit from the limits on segregation contained in this bill.

Finally, there are some troubling omissions in the bill with respect to the Ombudsman's investigative authority. It should be amended to ensure contractors within the correctional system are not exempt from our Office's oversight. Sections 104(9) and (10) should also be amended to ensure that inmates' telephone calls and emails to the Ombudsman cannot be intercepted.

As well, Section 84, which provides for MPPs and judges to be able to visit correctional facilities at any time, should be extended to include the Ombudsman and our fellow Officers of the Legislature. Although the Ombudsman can invoke his formal powers of investigation to enter facilities, there is also enormous value in making informal site visits to build relationships and share information. Ombudsman Dubé has recently visited several facilities around the province by invitation, and these have proven invaluable in building relationships between our Office, correctional staff, inmates and Ministry officials.

With that, I thank you for your time, and I am happy to answer any questions you might have.